

Bellcore

 Bell Communications Research

Michael S. Slomin

Senior Attorney

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 13, 1992

Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street N.W., Suite 222
Washington, D.C. 20554

ORIGINAL
FILE

Re: Matter of Use of N11 Codes and
Other Abbreviated Dialing Arrangements,
CC Docket No. 92-105

Dear Ms. Searcy,

Pursuant to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding, FCC 92-203 released May 6, 1992, and the Common Carrier Bureau's time extension order of June 15, 1992, on behalf of Bell Communications Research Inc. (Bellcore), as Administrator of the North American Numbering Plan, please find enclosed an original and six copies of its "Reply Comments of Bell Communications Research Inc. (Bellcore) as Administrator of the North American Numbering Plan."

Please stamp and return one copy to confirm your receipt. Please communicate with me should you have any questions concerning this matter.

Sincerely,



Michael S. Slomin

Enclosures

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List A B C D E

290 W. Mt. Pleasant Avenue
Room LCC-2B336
Livingston, New Jersey 07039
201 740 6390

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

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OFFICE OF THE SECRETARY

In the Matter of

The Use of N11 Codes and Other
Abbreviated Dialing Arrangements

CC Docket No. 92-105

Reply Comments of Bell Communications Research Inc. (Bellcore)
as Administrator of the North American Numbering Plan

Pursuant to the schedule established in the Notice of Proposed rulemaking herein, as extended by the Common Carrier Bureau's order of June 15, 1992 (DA-779), Bellcore is filing the following Reply comments in its capacity as North American Numbering Plan administrator (NANPA).^{1/}

As NANPA noted in its comments, N11 numbers are available for local dialing only and are therefore not the type of number resource that is ordinarily administered by NANPA to promote nationwide or international connectivity and interworking. Nevertheless, there are reasons for NANPA to be concerned about use of N11 resources, even though national administration of the

^{1/} The function of administering the North American Numbering Plan (NANP) was assigned to Bell Communications Research Inc. (Bellcore) in the Plan of Reorganization implementing divestiture that was entered and approved by the MFJ Court. As NANP Administrator (hereafter, NANPA), Bellcore has administered the numbering plan and related numbering resources for World Zone 1, which includes the United States, Canada and 16 Caribbean nations.

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N11 resources has been limited (largely to standardization of 411 and 911, and to a lesser extent, 611 and 811).^{2/} NANPA developed its points in its direct comments and will not burden the record by repeating them here. It might be noted that they reflect concerns expressed in the majority of other parties' comments as well.

NANPA will confine its Reply to addressing two assertions that have been made which are only peripherally related, if at all, to the issues of this proceeding. Nevertheless, they are incorrect and should not, in NANPA's view, be left unrebutted: (1) unwarranted allegations that NANPA has unfairly performed its number administration functions, and (2) an incorrect legal argument that, by not itself assuming NANPA's number administration role, the FCC is improperly delegating government authority to the private sector.

^{2/} First, policies developed for N11 codes should not improperly undermine or impair policies and procedures that are applied to assignment and use of other NANP resources, i.e., policies that promote fairness and efficiency, and the use of industry procedures for arriving at consensus. Second, assignment of abbreviated dialing resources should not adversely affect assignment of other NANP resources and future evolution of the NANP. And third, the Commission should consider that there may be as-yet-unidentified non-commercial "public service" uses of abbreviated dialing codes that may never be available in the future if all such codes are assigned as a result of this proceeding lest there never again be an opportunity to create a service akin to the virtually nationwide 911.

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Unwarranted Allegations of Unfairness

One party, Cox, argues that the Numbering Plan Administrators (presumably the LECs that currently administer local assignment of N11 codes) and Bellcore as NANPA should not administer N11 codes because, in its view, they are insensitive to the needs of non-LECs and much of the industry has no confidence in their neutrality. Four circumstances are advanced as so-called "evidence" of indifference to non-LEC interests.^{3/} NANPA believes that the circumstances have been seriously misrepresented.

NXX Guidelines. First, it is alleged that NANPA's draft guidelines for NXX code assignment contained none of the cellular carriers' proposals and failed to acknowledge that those proposals had been made. In fact, NANPA solicited initial contributions in October, 1991; by mid-December twenty-four contributions had been received of which seven were from the U.S. and Canadian cellular industry; NANPA prepared an initial straw proposal based on the twenty-four contributions and broadly distributed that proposal and copies of each of the submissions to the industry for its further analysis and discussion; specific sections and language were included to address cellular industry proposals and concerns (e.g., sections 5.4, 3.4, 5.1.1, 3.3, 4.0); and while the sources of the seven cellular submissions

^{3/} Cox Comments, 27-28.

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were not specifically identified, neither were those of the other seventeen contributors -- the introduction merely stated that there had been twenty-four contributions.^{4/}

More importantly, the straw proposal was not a NANPA recommendation or final document, it was an initial version of a draft-in-progress to help the industry focus its discussions at open industry meetings. It was intended to be, and was used as, the start of open discussions, not the result. All sectors of the industry were (and remain) free to discuss its contents, to work towards consensus on alternatives, and if they disagree with the ultimate results of the process, to seek alternatives from regulators.

Long Term Numbering Proposal. Second, it is alleged that in preparing its long term numbering proposal, NANPA did not consult any independent enhanced service providers (ESPs). In fact, during the same time period as NANPA was developing its long term numbering proposal, the Information Industry Liaison Committee (IILC) was addressing its Issue #011 ("Uniform Access Numbers for ESPs") through a Task Group formed to investigate numbering alternatives for access to ESPs. NANPA was an active member of this task group and used discussions at the Task Group meetings as input to the long term numbering proposal. Thus, NANPA

^{4/} Perhaps Cox is unaware of this since, unlike the seven cellular interests, it elected not to make an initial contribution.

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consulted with multiple ESPs in preparing its proposal.^{5/ 6/}

Draft PCS NXX Assignment Guidelines. Third, it is alleged that although NANPA's draft PCS NXX assignment guidelines were, according to Cox, "supposed to be distributed to all interested parties," they "were not distributed to Cox or many other PCS experimental licensees."^{7/} In fact, when NANPA recognized the need for guidelines for a PCS service access code, it took that need to an open public forum, the Industry Carriers' Compatibility Forum (ICCF) for resolution. ICCF established a working group to develop such guidelines. This group, like other ICCF groups, is open to any interested participant. Cox apparently chose not to participate in this open industry process. Having done so, it should not complain that it did not receive the documents of that group, or submissions made to that group such as the NANPA submission.

NANPA's Response to Cox' Request for an N11 Code. NANPA's letter to BellSouth, which is of record in this proceeding,

^{5/} Cox may not have been aware of the Task Group or of NANPA's participation. Although the IILC is an open industry body, the IILC secretariat has no record that Cox has ever attended an IILC meeting.

^{6/} It might be noted that the IILC Issue #011 Task Group considered the use of N11 codes as a means of accessing ESPs, and in its April, 1992 report did not recommend their use. This is similar to the position of most parties to this proceeding.

^{7/} Cox Comments, 28.

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speaks for itself. The letter was consistent with the availability for local assignment of N11 codes described in Notes on the Network, but provided reasons why it might be undesirable for such use to be pursued. BellSouth and Cox were free to accept or reject these reasons as they wished.^{8/} And, Cox' criticism of NANPA's suggestion that Cox participate in industry forums simply does not bear scrutiny. Reliance on open industry forums and processes to the extent feasible is normally regarded as desirable, not something to be condemned.^{9/}

Delegation of FCC Authority Is Not Involved

It is incorrectly argued that the Commission has proposed to delegate its authority over number assignment, but that it has no has no power to delegate such numbering authority to a private sector entity such as Bellcore.^{10/}

NANPA has never challenged the Commission's assertion of regulatory jurisdiction over numbering and does not do so now. However, there is a distinction between regulation of the

^{8/} Most of the commentators herein appear to concur with NANPA's concerns, including both the telephone industry and others.

^{9/} Perhaps Cox condemns the suggestion because it seemingly has chosen not to participate in many such forums.

^{10/} Cox Comments, 25-27. Cox also argues in the alternative that it would be imprudent for the Commission to do so, basing this on the four claims addressed previously. Id., 27. MCI argues that it would be inappropriate for the Commission to strengthen the current "delegation" to Bellcore of number administration authority. MCI Comments, 5-6.

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activities of common carriers, on the one hand, and actual governmental management of their activities or taking of their property, on the other. When Cox claims unlawful delegation, it is incorrectly assuming that the government has authority itself to assign the numbers, and that this authority is delegated.

Communications common carriers assign telephone numbers as an element of the services they provide. Assuming that there is an appropriate jurisdictional predicate, their policies and procedures in doing so are subject to regulatory review under the Communications Act, as are those of NANPA to the extent that this activity affects those services. Prescription of future policies to be followed by carriers in making such assignments is also possible under the Act. However, the Communications Act does not contemplate assumption by the FCC of number assignment any more than it contemplates performance by the FCC of telephone line installation or circuit adjustment.^{11/} The regulation function contemplated by the Act, as opposed to assumption by the FCC of the number assignment function, is consistent with the law.^{12/}

^{11/} This is shown by the contrast between Title III of the Act (in which the government itself performs analogous assignment of spectrum, and licensees waive claims to use of particular spectrum), and Title II (in which government regulates activities of the private sector).

^{12/} E.g., *State of Missouri ex rel. Southwestern Bell Tel. Co. v. P.S.C.*, 262 U.S. 276, 289 (1923) ("It must never be forgotten that, while the state may regulate with a view to enforcing reasonable rates and charges, it is not the owner of the property of public utility companies, and is not clothed with the general power of management incident to such ownership."); *I.C.C. v. Chic. Gt. Western Rwy Co.*, 209 U.S.

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The proposed rule simply maintains the status quo ante, that carriers subject to the Commission's jurisdiction (or NANPA on their behalf) will, in the first instance, make number assignment decisions, and that these decisions are subject to regulatory review under the Act. Thus, the FCC is not delegating a governmental function. It is leaving it in the private sector where it has been for more than a century, subject to the FCC's regulatory review.

Respectfully submitted,

BELL COMMUNICATIONS RESEARCH INC.

by: 
Michael S. Slomin

Its Attorney

Bell Communications Research, Inc.
290 West Mount Pleasant Avenue
Livingston, New Jersey 07039
(201) 740-6390

July 13, 1992

108, 118-19 (1907) ("It must be remembered that railroads are the private property of their owners; that while, from the public character of the work in which they are engaged, the public has the power to prescribe rules for securing faithful and efficient service and equality between shippers and communities, yet, in no proper sense, is the public a general manager."); Lake Shore & M. S. Rwy. Co. v. Smith, 173 U.S. 684, 691-92 and 697 (1899); Delaware, L & W. Rwy. Co. v. Town of Morristown, 276 U.S. 182, 193 (1928).

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CERTIFICATE OF SERVICE

I, Kelly A. Quinn, do hereby certify that a copy of the foregoing Reply Comments of Bell Communications Research, Inc. (Bellcore) as Administrator of the North American Numbering Plan, has been served on the following parties by first class mail, postage prepaid, on this 13th day of July, 1992.

Kelly A. Quinn
Kelly A. Quinn

- 2 -

James S. Blaszak
Gardner, Carton & Douglas
Attorney for Ad Hoc Telecommunications
Users Committee
1301 K Street NW, East Tower
Washington, D.C. 20005

Dr. Lee L. Selwyn
Economics and Technology, Inc
One Washington Mall
Boston, Massachusetts 02108-2617

Ronald L. Lehr
Attorney for Alternative Weekly
Newspapers, New Times, Inc.,
Sasquatch Publishing, City Pages,
and Tuscon Weekly
934 S. Gilpin Street
Denver, CO 80209-4521

Albert H. Kramer
Robert F. Aldrich
Helen M. Hull
Keck, Mahin & Cate
Attorneys for The American Public
Communications Council
1201 New York Avenue, N.W.
Washington, D.C. 20005-3919

Francine J. Berry
Mark C. Rosenblum
Albert M. Lewis
Attorneys for American Telephone and
Telegraph Company
Room 3244JI
295 North Maple Avenue
Basking Ridge, New Jersey 07920-1002

Paul J. Berman
Covington & Burling
Attorney for Municipality of
Anchorage d/b/a Anchorage
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044

Mark Ortlieb
Ameritech Services, Inc.
2000 West Ameritech Center Drive
Hoffman Estates, Illinois 60196

William B. Barfield
Thompson T. Rawls II
Attorneys for BellSouth Corporation
and BellSouth Telecommunications
Suite 1800
1155 Peachtree Street, N.E.
Atlanta, GA 30367-6000

Stephen R. Bell
Squire, Sanders & Dempsey
Attorney for BT North America Inc.
1201 Pennsylvania Avenue, N.W.
P.O. Box 407
Washington, D.C. 20044

Carol F. Sulkes
Vice President-Regulatory Policy
Central Telephone Company
8745 Higgins Road
Chicago, IL 60631

- 3 -

Theodore D. Frank
Vonya B. McCann
Arent, Fox, Kintner, Plotkin
& Kahn
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339

Werner K. Hartenberger
Leonard J. Kennedy
J. G. Harrington
Dow, Lohnes & Albertson
Attorneys for Cox Enterprises, Inc.
1255 23rd Street, N.W.
Suite 500
Washington, D.C. 20037

Roy L. Kaufman
General Partner and Agent
for Datatrex
1119 12th Street NW
Washington, D.C. 20005-4632

John M. Goodman
Charles H. Kennedy
Attorneys for the Bell Atlantic
Telephone Companies
1710 H Street, N.W.
Washington, D.C. 20006

Joan M. Griffin
Attorney for GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036

Joseph P. Markoski
David Alan Nall
Squire, Sanders & Dempsey
Attorneys for Information
Technology Association of America
P.O. Box 407
Washington, D.C. 20047

Angela Burnett
Assistant General Counsel
Information Industry Association
555 New Jersey Avenue, NW
Suite 800
Washington, D.C. 20001

Carol Schultz
Attorney for MCI Telecommunications
Corporation
1801 Pennsylvania Avenue, NW
Washington, D.C. 20006

Andrew D. Lipman
Russell M. Blau
Swidler & Berlin, Chartered
Attorneys for Metropolitan Fiber
Systems, Inc.
3000 K Street, N.W.
Washington, D.C. 20007

R. Michael Senkowski
Jeffrey S. Linder
Wiley, Rein & Fielding
Attorneys for Mobile Telecommunication
Technologies Corporation
1776 K Street N.W.
Washington, D.C. 20006

- 4 -

Paul Rodgers
Charles D. Gray
James Bradford Ramsay
National Association of Regulatory
Utility Commissioners
1101 ICC Building
Post Office Box 684
Washington, D.C. 20044

David Cosson
L. Marie Guillory
Attorneys for National Telephone
Cooperative Association
2626 Pennsylvania Ave., N.W.
Washington, D. C. 20037

Richard E. Wiley
Michael Yourshaw
Edward A. Yorkgitis Jr.
Attorneys for Newspaper Association
of America
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20036

John F. Sturm
Senior Vice President/Government,
Legal and Policy
Newspaper Association of America
Dulles International Airport
P. O. Box 17407
Washington, D.C. 20041

Mary McDermott
Jacqueline Nethersole
New York Telephone Company &
New England Telephone and
Telephone Company
120 Bloomingdale Road
White Plains, NY 10605

James P. Tuthill
Nancy C. Woolf
Pacific Bell
Nevada Bell
140 New Montgomery St., Rm 1523
San Francisco, CA 94105

James L. Wurtz
Pacific Bell
Nevada Bell
1275 Pennsylvani Ave., N.W.
Washington, D.C. 20004

Jan Masek
Professional Business Systems
302 N. La Brea Ave. -Suite 200
Los Angeles, CA 90036

Paul J. Berman
Daniel S. Goldberg
Covington & Burling
Attorneys for Puerto Rico
Telephone Authority
1201 Pennsylvania Ave., N.W.
Post Office Box 7566
Washington, D.C. 20044

George S. Kois
Attorney for LO/AD Communications
200 South Los Robles Avenue
Suite 250
Pasaden, CA 91101

- 5 -

Josephine S. Trubek
Michael J. Shortley, III
Rochester Telephone Corporation
180 South Clinton Avenue
Rochester, New York 14646

Southern New England Telephone Company

Linda D. Hershma
Vice President-External Affairs
227 Church St., 14th Floor
New Haven, Connecticut 06510

Durward D. Dupre
Richard C. Hartgrove
John Paul Walters, Jr.
Southwestern Bell Telephone Company
1010 Pine Street, Room 2114
St. Louis, Missouri 63101

Jay C. Keithley
Leon M. Kestenbaum
Sprint Corporation
1850 M St., N.W., Suite 1110
Washington, D.C. 20036

Martin T. McCue
United States Telephone Association
900 19th St., N.W. Suite 800
Washington, D.C. 20006-2105

Lawrence E. Sarjeant
U.S. West Communications, Inc.
1020 19th Street, N.W.
Suite 700
Washington, D.C. 20036

Canadian Steering Committee
on Numbering
410 Laurier Ave, West
Ottawa, Ontario K1P6H5
CANADA